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EXHIBIT 5

DATE 3-27-13

HB SB278

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January 31, 2013

Via Email

TO: Eastern Montana Concerned Citizens and Counties/CMR Reserved Water Rights Compact

Dear Clients:

Per your request to have a document to share at the upcoming hearings, I am sending you this letter regarding my assessment of the CMR Compact. As you know I have been working closely with the client steering committee, and the committee voted to recommend to the entire group that we support the Compact as amended in the negotiating process. The reasons that the steering committee voted to support the CMR Compact, as amended, are:

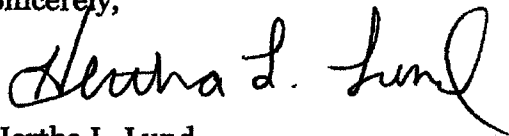
- The Compact would provide the CMR with an effective priority date of 2013 instead of a 1936 priority date.
- Initially, the CMR was requesting an all-out basin closure and to impact an area of land much larger than just the land within the CMR boundaries. Now, the Compact does not close the basins surrounding the CMR and, except for restrictions on mainstem impoundments on some stream segments, the Compact only impacts land within the CMR boundaries.
- The negotiating process resulted in changes to language in the Compact that was important to property owners neighboring the CMR.
- The negotiating process resulted in a quantified list of streams with .5 or 1 cfs dedicated to instream flows. The volume of water provided to the CMR meets the CMR's instream flow needs; however, it is not so large as to stop some future development of water by landowners.
- Also, during the negotiating process the CMR agreed to lessen the number of streams with quantified rights and the volume of instream flows protected on some streams.

As I have discussed with the committee, if a Compact is not negotiated and approved by the Legislature, the next step would be litigation in the Montana Water Court. Landowners, in order to protect their current and future rights, would have to object after the CMR files for its water rights, and then proceed through the adjudication process at the Water Court. The CMR would most likely file inflated water rights claims that are larger than the amount negotiated in the Compact and the CMR would likely keep its 1936 priority date. Therefore, water rights holders would have to object or allow the CMR to perfect a water right that would most likely be large and that would

negatively impact current water rights due to the 1936 priority date. This litigation process at the Water Court would be expensive and would provide uncertainty as to the outcome. Therefore, the steering committee has weighed all the information and recommends support of the CMR Compact during the legislative process.

Even though, I think that the CMR Compact has legal issues that could be litigated and may turn in the landowners' favor, the current CMR Compact seems to be best deal that can be reached without the expenditure of large sums of money for litigation and living with uncertainty for years. Based on my discussions, understanding of water law, and knowledge of the high cost of litigation and uncertainty involved, I agree with the steering committee's decision to recommend support of the CMR Compact, as amended.

Sincerely,

A handwritten signature in cursive script that reads "Hertha L. Lund". The signature is written in dark ink and is positioned below the word "Sincerely,".

Hertha L. Lund

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